REMARKS/ARGUMENTS

Claims 1 - 5, 7, 8, 33 and 35 - 48 remain in the application.

35 U.S.C. 103(a) Rejections

The Examiner has rejected claims 1 - 5, 7, 8, 33 and 41 as being obvious in view of U.S. Patent No. 6,530,018 (Fleming). Applicant respectfully traverses the rejections for the reasons set out below.

Applicant submits that the Examiner has failed to make out a *prima facie* case of obviousness. Applicant submits that Fleming does not teach or suggest all the claimed limitations; that there is no teaching or suggestion in Fleming to modify its teachings to arrive at the claimed invention; and that, even if Fleming were modified, there would be no reasonable expectation of success and such modification would not result in the invention as claimed herein.

Claim 33 of the present application is directed to a component audit and inventory management system. The system comprises a host unit, resident in a host computer, and a host message handling system. The host computer comprises a processor, memory, and user interface, and the host message handling system is operatively connected to the host unit and accessible to a data network. The host unit further includes means for receiving a request-inventory message from a client computer via the host message handling system, means for generating an inventory-commence message in response to the request-inventory message, and for forwarding the inventory-commence message to the client computer via the host message handling system; means for receiving hardware and software inventory data associated with hardware and software installed on a target device associated with the client and collected electronically from the target device, the inventory data having been collected by an inventory agent installed on the target device and activated by the inventory-commence message; and means for aggregating inventory data from a plurality of target devices associated with the client.

In other words, a host computer, through its host unit and host message handling system, receives a request-inventory message from a client computer. The host computer then generates an inventory-commence message in response to the request-inventory message sent by the client computer, and forwards the request-inventory message to the client

computer via the message handling system. The host unit of the host computer then receives hardware and software inventory data for hardware and software installed on a target device associated with the client. The data is collected at the target device by an inventory agent that is activated by the inventory-commence message. The host device then aggregates data collected from a plurality of target devices associated with the client.

Fleming is wholly unrelated to component audit and inventory management systems. Fleming provides a system and method for automatically downloading updated device drivers from a server. No auditing or inventory management services are provided. Fleming discloses a computer system 108 in which a device 102 is installed (see e.g. col. 4, lines 33 - 34). The device 102 is a standard computer component or peripheral, such as a video card, printer, storage device, etc. (see e.g. col. 4, lines 4 - 12). When the device 102 is installed into the computer system 108, the computer system 108 interfaces with the device 102, through an interface 103, to retrieve a URL 106 stored in the device. The computer system 108 then contacts a server 112 associated with the URL 106 and receives an updated device driver for the device 102 over a network 111.

The Examiner has equated the computer system 108 of Fleming to the host computer of the present invention, and the connection to the network 111 to the host message handling system. However, the Examiner appears to consider both the device 102 and the server 112 to be equivalent to the client computer of the present invention, and also appears to confuse the connection to the network 111 with the interface 103 (see Office Action, p. 3: "interface 103 is read as this means because once device 102 is installed the system interrogate [sic] the device 102"; however the interface 103 is the interface between the device and the computer system 108) and (see Office Action, p. 2: "read as the network 111 which allows communication between the server 112 and the computer system 108"). Clearly, the device 102 is not a computer, and even if it were, the meaning of the term client computer cannot be given two meanings within the same claim to suddenly transform it into the server 112.

Assuming that the device 102 can be equated to a client computer (which Applicant strenuously rebuts since computer devices are well-known components of a computer system, not computers themselves), then the computer system 108 queries the "client computer" (device 102), receives a response (the URL) via the "message handling system" (interface 103), and then sends a message to the server 112 over the network 111. The server 112 is not the "client computer" (device 102), as recited in the claim, nor is the connection to the

network 111 the "message handling system" (interface 103). The server 112 then returns an updated device driver to the computer system 108 over the network 111. A device driver is a well-known loadable component of an operating system, it is not hardware and software inventory data, which is clearly defined as identifying data related to the software and hardware already resident at the client computer (see e.g. specification p. 9, lines 25 - 28). No data is collected by any agent associated to either the server 112 or the device 102. Nor is any data related to multiple target devices aggregated at the computer system 108, which Applicant notes is not a routine operation as suggested, without foundation, by the Examiner.

Similarly, assuming that the server 112 is equated to the client computer and connection to the network 111 is equated to the message handling system, then the computer system 108 queries the device 102 (not the client computer), receives a response (the URL) over the interface 103 (not the message handling system), and then sends a message to the "client computer" (server 112) over the message handling system (network 111). The server 112 then returns an updated device driver to the computer system 108 over the network 111. Again, a device driver is not hardware and software inventory data, and no data is collected by any agent associated to either the server 112 or the device 102. Nor is any data related to multiple target devices aggregated at the computer system 108.

Accordingly, Applicant submits that there is no rational interpretation of Fleming that teaches or suggests all the features of the present invention as claimed in claim 33, and it is unclear to the Applicant that any modification could be made to the system of Fleming to even approximate the present invention without illogically conflating two wholly unrelated components (the server 112 and the device 102) into a single entity (the client computer) or without the benefit of impermissible hindsight. Applicant further submits that even if the conflation of the server 112 and device 102 were considered reasonable, nothing in Fleming suggests the collection of inventory data from target devices associated with a client. Applicant respectfully submits that claim 1 and its dependent claim 41 are patentable in view of Fleming, and requests withdrawal of the rejections under 35 U.S.C. 103(a).

Claim 1 is directed to an inventory agent of the component audit and inventory management system. The inventory agent comprises executable code for implementing a receiver, detector and transmitter. The receiver includes means for receiving an inventory-commence message from a client computer over a data network. The detector includes means for collecting hardware and software inventory data relating to hardware and software installed on a target

device in response to commands included in the inventory-commence message. The transmitter includes means for transmitting, through the data network, an inventory-data message, including the inventory data associated with the target device, to a host unit of the component audit and inventory management system.

The Examiner has not specifically addressed claim 1. However, Applicant reiterates the comments made above in respect to claim 33, and submits that claim 1 recites the present invention from the perspective of the inventory agent installed on the target device, and is equally patentable over Fleming. Accordingly, Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. 103(a) to claim 1, and to claims 2 - 5, 7 and 8 which depend from it.

The Examiner rejected claim 38 as being obvious in view of Fleming and U.S. Patent No. 6,346,885 (Curkendall). Applicant again submits that the Examiner has failed to make out a *prima facie* case of obviousness. Applicant reiterates the comments above in respect to claim 33, from which claim 38 depends, and further submits that there is no suggestion or motivation to combine the teachings of Fleming and Curkendall, and a combination of the teaching of these references would not result in the invention as claimed in claim 38.

Claim 38 includes all the limitations of claim 33, and further specifies an inventory agent that is resident on the target device as a software agent and comprises executable code for implementing a receiver including means for receiving an inventory-commence message from the client computer over the data network; a detector including means for collecting hardware and software inventory data associated with the target device in response to the inventory-commence message; and a transmitter including means for transmitting to the host unit, via the data network, an inventory-data message including the inventory data associated with the target device.

As previously noted, Fleming is directed to a system and method for automatically downloading updated device drivers. Curkendall is directed to portable RF tag reader for collecting and managing livestock data. The Examiner has suggested no motivation for combining these references, and Applicant can see no reason that anyone skilled in the art of computer data inventory management would look to a combination of device driver download system and a hardware device for reading the tags on the ears of cattle to arrive at the present invention. In addition, the RF tag reader of Curkendall discloses a hardware-enabled

RF receiver and transmitter, not a software-enabled inventory agent. So, even if there were a motivation to combine Fleming and Curkendall, the resultant combination would not read on claim 38. Accordingly, withdrawal of the rejection under 35 U.S.C. 103(a) is requested.

Consideration of Claims 35 - 37, 39, 40, and 42 - 48

As claim 33 is generic and is submitted to be patentable, Applicant requests favorable consideration of the claims previously considered withdrawn.

No fee is believed due for this submission. However, if a fee is due, the Commissioner is hereby authorized to charge any additional fees, and credit any overpayments to Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP.

Applicant submits that the application is now in condition for allowance, and favorable action to that end is respectfully requested.

Respectfully submitted,
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